

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

EDDY H. DUARTE,

Plaintiff,

v.

No. 17-cv-0055 SMV

**NANCY A BERRYHILL,
Acting Commissioner of the Social Security Administration,**

Defendant.

**AGREED ORDER GRANTING MOTION FOR ATTORNEY FEES UNDER EQUAL
ACCESS TO JUSTICE ACT (EAJA)**

THIS MATTER having come before the Court upon Plaintiff's Unopposed Motion for Attorney Fees Under Equal Access to Justice Act (Doc. # 23) the Court FINDS that the MOTION should be GRANTED.

IT IS THEREFORE ORDERED that attorney fees be, and hereby are, awarded under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), payable to Plaintiff but mailed to his attorney in the amount of \$3,145.80. *See Astrue v. Ratliff*, 130 U.S. 2521 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

IT IS FURTHER ORDERED THAT, if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

DATED this 30th day of November, 2017.



The Honorable Stephan M. Vidmar
United States Magistrate Judge

Submitted by:

s/ Feliz M. Martone
Feliz M. Martone
Attorney for Plaintiff

Approved by:

Email approval 11/28/17
Meghan Berglind
Attorney for Defendant